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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,762

12/30/2003

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EXAMINER

ALTSCHUL, AMBER L

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/748,762	Applicant(s) MIHAI ET AL.	
	Examiner AMBER L. ALTSCHUL	Art Unit 3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>August 6, 2004, September 16, 2005, June 23, 2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-47 have been presented for examination.

Priority

2. This application claims benefit of a United States Provisional Application Number 60/443,350 filed February 1, 2003, United States Patent Application 10/135,180 filed on April 30, 2002, United States Patent Application 10/424,553 filed April 28, 2003 and United States Patent Application 10/659,760 filed September 10, 2003. Applicant's claim for the benefit of these prior-filed applications is acknowledged.

Information Disclosure Statement

3. The examiner has reviewed the patents and articles supplied in the Information Disclosure Statements (IDS) provided on August 6, 2004, July 6, 2005 and June 23, 2006.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 9 contains the trademark/trade names Microsoft Active Directory, a Novell Directory Services, and a Lightweight Directory Access Protocol. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the

claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a medical terminal and, accordingly, the identification/description is indefinite. Therefore, Claim 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claims 11 contains the trademark/trade names Microsoft Certificate Services and Open Certificate Authority. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a medical terminal and, accordingly, the identification/description is indefinite. Therefore, Claim 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-47 are rejected under 35 U.S.C. 102(e) as being unpatentable over United States Patent Number 6,408,330, DeLaHuerga, et al., hereinafter DeLaHuerga.

9. As per claim 1, DeLaHuerga teaches A method of securely transmitting medical data generated by a medical device, the method comprising:

creating a first account on a central medical information computer for the medical device, (column 29, lines 46-59);

generating a first digital certificate for the medical device, (column 22, lines 6-28). Examiner interprets the method of authentication in DeLaHuerga to encompass the 'digital certificate' method of applicant's present invention, (column 22, lines 29-43);

mapping the first digital certificate to the first account, (column 22, lines 44-56);

transferring the first digital certificate to the medical device, (column 22, lines 6-28);

creating a second account on the central medical information computer for a user interface device, (column 23, lines 14-28);

generating a second digital certificate for the user interface device, (column 23, lines 37-51);

mapping the second digital certificate to the second account, (column 23, lines 37-51);
transferring the second digital certificate to the user interface device, (column 23, lines 37-51);
receiving medical data at the central medical information computer using the first digital certificate, the medical data being generated by the medical device, (column 23, lines 37-51);
and
transmitting the medical data from the central medical information computer to the user interface device using the second digital certificate, (column 24, lines 10-17).

10. As per claim 2, DeLaHuerga teaches the method of claim 1 as described above.

DeLaHuerga further teaches further comprising establishing a secure connection between the central medical information computer and the medical device, wherein the central medical information computer does not produce any user interface prompts for the medical device, (column 23, lines 37-51).

11. As per claim 3, DeLaHuerga teaches the method of claims 1 as described above.

DeLaHuerga further teaches further comprising transmitting an operating parameter to the medical device using the first digital certificate, (column 44, lines 19-38).

12. As per claim 4, DeLaHuerga teaches the method of claims 1 and 3 as described above.

DeLaHuerga further teaches wherein transmitting the operating parameter to the medical device comprises transmitting at least one of a start signal and a stop signal, (column 5, lines 42-54).

13. As per claim 5, DeLaHuerga teaches the method of claims 1 and 3 as described above.

DeLaHuerga further teaches wherein transmitting the operating parameter to the medical device comprises transmitting volume rate data to an infusion pump controller, (column 9, lines 15-23).

14. As per claim 6, DeLaHuerga teaches the method of claims 1, 3 and 5 as described above. DeLaHuerga further teaches wherein the infusion pump controller is integral to an infusion pump, (column 9, lines 15-23).

15. As per claim 7, DeLaHuerga teaches the method of claims 1 and 3 as described above. DeLaHuerga further teaches wherein transmitting the operating parameter to the medical device comprises transmitting at least one of a start time, a stop time, and volume rate data to an infusion pump which is integral to an infusion line set, (column 17, lines 38-55).

16. As per claim 8, DeLaHuerga teaches the method of claim 1 as described above. DeLaHuerga further teaches wherein creating the first account on the central medical information computer for the medical device comprises creating a first user account in an active directory, (column 39, lines 22-46).

17. As per claim 9, DeLaHuerga teaches the method of claims 1 and 8 as described above. DeLaHuerga further teaches wherein the active directory comprises at least one of a Microsoft Active Directory, a Novell Directory Services, and a Lightweight Directory Access Protocol, (column 17, lines 38-67 and column 18, lines 1-59). Examiner asserts that “Microsoft Active Directory, a Novell Directory Services, and a Lightweight Directory Access Protocol” is not functionally related to the substrate of the method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack*, 703 F.2d 1381 , 1385, 217 USPQ 401 , 404 (Fed. Cir. 1983)., *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use this method in any convention

because Microsoft Active Directory, a Novell Directory Services, and a Lightweight Directory Access Protocol does not functionally relate to the steps of the method claimed. See *Gulack* cited above.

18. As per claim 10, DeLaHuerga teaches the method of claim 1 as described above. DeLaHuerga further teaches wherein generating the first digital certificate for the medical device comprises generating the first digital certificate at the central medical information computer, (column 44, lines 19-38).

19. As per claim 11, DeLaHuerga teaches the method of claims 1 and 10 as described above. DeLaHuerga further teaches wherein generating the first digital certificate at the central medical information computer comprises generating the first digital certificate at the central medical information computer using at least one of Microsoft Certificate Services and Open Certificate Authority, (column 17, lines 38-67 and column 18, lines 1-59). Examiner asserts that “Microsoft Certificate Services and Open Certificate Authority” is not functionally related to the substrate of the method. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *Cf. In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983), *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use this method in any convention because Microsoft Certificate Services and Open Certificate Authority does not functionally relate to the steps of the method claimed. See *Gulack* cited above.

20. As per claim 12, DeLaHuerga teaches the method of claim 1 as described above.

DeLaHuerga further teaches wherein mapping the first digital certificate to the first account comprises associating the first digital certificate with an active directory, (column 39, lines 22-46).

21. As per claim 13, DeLaHuerga teaches the method of claim 1 as described above.

DeLaHuerga further teaches transferring the first digital certificate to the medical device comprises transferring the first digital certificate to the medical device via a cable; and receiving the medical data at the central medical information computer using the first digital certificate comprises receiving medical data at the central medical information computer wirelessly, (column 17, lines 56-65).

22. As per claim 14, DeLaHuerga teaches the method of claim 1 as described above.

DeLaHuerga further teaches wherein transferring the first digital certificate to the medical device comprises transferring the first digital certificate to an infusion pump controller, (column 9, lines 15-23).

23. As per claim 15, DeLaHuerga teaches the method of claims 1 and 14 as described above.

DeLaHuerga further teaches wherein the infusion pump controller is integral to an infusion pump, (column 9, lines 15-23).

24. As per claim 16, DeLaHuerga teaches the method of claim 1 as described above.

DeLaHuerga further teaches wherein the infusion pump controller is structured to control an infusion pump which is integral to an infusion line set, (column 17, lines 38-55).

25. As per claim 17, DeLaHuerga teaches the method of claim 1 as described above.

DeLaHuerga further teaches wherein receiving medical data at the central medical information computer comprises receiving medical data generated by a controller for infusion pump, (column 9, lines 15-23).

26. As per claim 18, DeLaHuerga teaches the method of claim 16 as described above.

DeLaHuerga further teaches wherein:

receiving medical data at the central medical information computer comprises receiving the medical data at the central medical information computer wirelessly, (column 17, lines 56-65); and

transmitting medical data from the central medical information computer to the user interface device comprises transmitting the medical data from the central medical information computer to the user interface device wirelessly, (column 17, lines 56-65).

27. As per claims 19-32, these claims are rejected as the same reasons as set forth in claims 1-18 above.

28. As per claims 33-41, these claims are rejected as the same reasons as set forth in claims 1-18 above.

29. As per claims 42-47, these claims are rejected as the same reasons as set forth in claims 1-18 above.

Conclusion

30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amber L. Altschul whose telephone number is (571) 270-1362. The examiner can normally be reached on M-Th 7:30-5, F 7:30-4, every other Friday Off.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gerald J. O'Connor can be reached on (571) 272-6787. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300.

33. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-8219.

34. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) method. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR method, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR method, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you

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would like assistance from a USPTO Customer Service Representative or access to the automated information method, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/A. L. A./
Examiner, Art Unit 3686
March 15, 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686